

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Browne	Team: Squad #8	CCRB Case #: 201502494	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 03/27/2015 11:00 PM	Location of Incident: Outside 17-11 New Haven Avenue; Outside 290 Beach 17th Street	Precinct: 101	18 Mo. SOL 9/27/2016	EO SOL 9/27/2016	
Date/Time CV Reported Sat, 03/28/2015 1:13 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 04/02/2015 10:58 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Nicholas Ventimiglia	12331	945337	101 PCT
2. POM Richard Schell	19139	943791	101 PCT
3. SGT Steve Crozier	02379	929964	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Steve Crozier	Abuse: Sgt. Steve Crozier stopped § 87(2)(b) outside 17-11 New Haven Avenue.	
B.POM Richard Schell	Abuse: PO Richard Schell threatened § 87(2)(b) with the use of force outside 17-11 New Haven Avenue.	
C.SGT Steve Crozier	Abuse: Sgt. Steve Crozier arrested § 87(2)(b) outside 290 Beach 17th Street.	
§ 87(2)(g), § 87(4-b)		

### Case Summary

At approximately 11:00 p.m. on March 27, 2015, § 87(2)(b) was walking by himself outside of 17-11 New Haven Avenue in Queens when a police car containing three officers—identified through investigation as Sgt. Steve Crozier, PO Richard Schell, and PO Nicholas Ventimiglia of the 101<sup>st</sup> Precinct anticrime team—pulled alongside him. After exiting the car, PO Schell approached § 87(2)(b) and allegedly told him to stop (**Allegation A**). However, § 87(2)(b) did not do so and instead fled on foot. PO Schell immediately pursued him for approximately four blocks, during which he allegedly stated two times that he could shoot § 87(2)(b) (**Allegation B**). Eventually, § 87(2)(b) turned into the driveway of 490 Beach 17<sup>th</sup> Street and stopped, at which point PO Ventimiglia, who had been pursuing him with the vehicle, turned in behind him. As he did so, PO Ventimiglia allegedly struck § 87(2)(b) with front of the car (**Allegation C**), propelling him forward and causing him to sustain lacerations to his left leg and ankle. PO Ventimiglia and PO Schell then handcuffed § 87(2)(b) and, with authorization from Sgt. Crozier, arrested him for § 87(2)(b) (**Allegation D**).

### Mediation, Civil and Criminal Histories

Due to § 87(2)(b)'s arrest and injuries, this case was deemed unsuitable for mediation. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] (b) A request for any notice of claim related to this incident is still outstanding.

### Civilian and Officer CCRB Histories

- Sgt. Crozier has been a member of the NYPD for thirteen years and has been a subject in six prior CCRB cases involving twenty-three allegations, among which only one allegation of a frisk has been substantiated. Three stop allegations have been pleaded against Sgt. Crozier, two of which were unsubstantiated and one of which was exonerated.
- PO Richard Schell has been a member of the NYPD for eight years and has been a subject in six prior CCRB cases involving ten allegations. No allegations have been substantiated against him § 87(2)(g).
- PO Nicholas Ventimiglia has been a member of the NYPD for eight years and has been a subject in five prior CCRB cases involving eight allegations. One allegation of a stop was substantiated against him as part of case #201406088. There has been only one other allegation of force made against him, which was unsubstantiated.
- This is the first CCRB complaint involving § 87(2)(b) (see Board Review #2).

### Potential Issues

§ 87(2)(b) stated that at some point after he had been struck by the vehicle, he saw multiple residents of a nearby house standing outside watching from their front door, though he did not know who they were or what they witnessed. On April 22, 2015 and April 26, 2015, respective please call letters were mailed to two addresses outside of which the collision took place. On May 4, 2015, the CCRB field team conducted a canvass along the reported pursuit route to identify witnesses and obtain video footage. No one spoken to reported witnessing the incident and no footage was recovered. Multiple please call letters and CCRB business cards were left around the neighborhood, but as of the date of this report, no witnesses have contacted the CCRB in regards.

## Findings and Recommendations

### Allegation A—Abuse of Authority: Sgt. Steve Crozier stopped § 87(2)(b) outside 17-11 New Haven Avenue.

It is undisputed that after pulling alongside § 87(2)(b) as he walked on the sidewalk, one of the officers at the very least asked to speak with him. It is also undisputed that § 87(2)(b) refused to do so and instead fled, at which point PO Schell and Sgt. Crozier pursued him on foot.

Sgt. Crozier (see Board Review #3), PO Schell (see Board Review #4), and PO Ventimiglia (see Board Review #5) all maintained that when they saw § 87(2)(b) walking, they believed him to be § 87(2)(b), a suspect whom all officers stated was wanted by police. Sgt. Crozier stated that § 87(2)(b) was wanted for a domestic assault and was known to carry a firearm, information he obtained from a poster in the stationhouse that he reviewed the day prior. PO Schell stated that he too saw § 87(2)(b) stationhouse poster, noting that he is known to carry a firearm and was wanted on an outstanding family court warrant as well as in connection with a shooting. PO Ventimiglia also stated that he knew § 87(2)(b) was wanted on an outstanding family court warrant, but that he learned this by running warrant checks prior to going out on patrol that night. All officers asserted that § 87(2)(b) is known to frequent Beach 15<sup>th</sup> Street, which is located approximately one block from where § 87(2)(b) was approached.

In addition to his presence in this area, the officers maintained that § 87(2)(b) matched § 87(2)(b) description. Sgt. Crozier identified § 87(2)(b) as a 6'0" tall black male; PO Schell identified him as a light-skinned black male with close cut hair; and PO Ventimiglia identified him as a 5'8" tall black male with a medium build. Although they all believed § 87(2)(b) to match these descriptions, they each confirmed that they only saw § 87(2)(b)'s profile, as he was walking parallel to the car. Additionally, PO Schell and PO Ventimiglia both confirmed that § 87(2)(b) was wearing a dark hoodie that covered his head and that there was poor visibility because of a lack of lighting on the street. § 87(2)(b) is a 6'0" tall tan-skinned Hispanic male who weighs 175 pounds. The officers reportedly did not know that § 87(2)(b) was not § 87(2)(b) until after he was apprehended.

PO Schell and PO Ventimiglia both claimed to be the officer who spoke to § 87(2)(b) before he fled. However, regardless of who issued the command, all three officers confirmed that they briefly discussed their shared suspicion that § 87(2)(b) was § 87(2)(b) prior to approach, and Sgt. Crozier, the ranking officer in the vehicle, acknowledged authorizing the stop accordingly.

§ 87(2)(b) (see Board Review #6) maintained that he was speaking on his cell phone when the officers approached. PO Schell corroborated this and stated that just before fleeing, he placed the phone, the color and size of which he did not recall, into his right pants pocket. As he turned and fled in the opposite direction, PO Schell reportedly observed § 87(2)(b) clutch what appeared to be the handle of a black handgun tucked into his left waistband area. Sgt. Crozier did not see any phone or other object in § 87(2)(b)'s hand, though he too reported seeing § 87(2)(b) clutch a three to four-inch black object that he believed to be the base of a handgun tucked into his left waistband area. However, both officers acknowledged that § 87(2)(b)'s hand was covering the object almost completely, so they could not see its shape or size, nor could they see any bulge or outline below the waistband. PO Ventimiglia did not see § 87(2)(b) carrying anything, nor did he see any bulges or outlines on his body. Although the IAB complaint log completed by Captain Robert Sparkes (see Board Review #7) noted that officers observed § 87(2)(b)

§ 87(2)(b) throw a firearm of unknown make or color during the pursuit, all three officers testified to not seeing him throw any objects at any point. Furthermore, no firearm was recovered from § 87(2)(b) or from a search of the pursuit route, which was reportedly canvassed by PO Schell, Sgt. Crozier, and the Emergency Service Unit.

Police pursuit of an individual significantly impedes a person's freedom of movement, qualifying it as a stop. Therefore, such pursuit must be justified by reasonable suspicion that a crime has been, is being, or is about to be committed. Yet flight alone, even in conjunction with circumstances that might justify a request for information, is insufficient to justify pursuit because an individual has a right to be left alone and refuse to respond to police inquiries. People v. Holmes, 81 N.Y.2d 1056 (1993) (see Board Review #8).

§ 87(2)(g)

[REDACTED]

**Allegation B— Abuse of Authority: PO Richard Schell threatened § 87(2)(b) with the use of force outside 17-11 New Haven Avenue.**

§ 87(2)(b) alleged that as PO Schell pursued him on foot, he twice stated that he could shoot him. Conversely, PO Schell denied ever making that statement or any such threat of force, and neither PO Ventimiglia nor Sgt. Crozier heard PO Schell make any such statement.

§ 87(2)(g)

[REDACTED]

**Allegation C—Abuse of Authority: Sgt. Steve Crozier arrested § 87(2)(b) outside 290 Beach 17th Street.**

It is undisputed that after the collision, § 87(2)(b) was handcuffed and arrested under the supervision of Sgt. Crozier for § 87(2)(b).

§ 87(2)(b), as listed on the arrest report (see Board Review #10). PO Schell and PO Ventimiglia acknowledged physically handcuffing § 87(2)(b). PO Schell maintained that § 87(2)(b) was yelling in pain and initially did not allow them to place his hands behind his back, though they were able to overcome his resistance within fifteen seconds. PO Ventimiglia did not make any mention of resistance and merely stated that he handcuffed him while on the ground. Sgt. Crozier stated that he arrived only after the handcuffs were secured, so he did not witness the apprehension.

§ 87(2)(g)

When asked about the gun charge, PO Schell stated that it was made because they believed that he did have a gun. When asked why the charge was for possession of a loaded firearm, specifically, PO Schell stated that he believed that to be the only applicable penal code. The officers confirmed that the cocaine was not found until after § 87(2)(b) was searched at the stationhouse during processing. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

[REDACTED]

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§ 87(4-b), § 87(2)(g) [Redacted]  
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Squad: \_\_\_\_

Investigator: \_\_\_\_\_  
Signature                      Print                      Date

Pod Leader: \_\_\_\_\_  
Title/Signature                      Print                      Date

Attorney: \_\_\_\_\_  
Title/Signature                      Print                      Date